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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 001282

SIPDIS

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TAGS: PGOV KCOR KDEM I2

SUBJECT: ANTI-CORRUPTION UPDATE

REF: A. BAGHDAD 1235
 1B. BAGHDAD 1224 AND PREVIOUS
 1C. BAGHDAD 1161
 1D. BAGHDAD 120

Classified By: ACCO Joseph Stafford, reason 1.4 (b and d).

SUMMARY

11. (C) Our sources deny media reports that the Prime Minister has "frozen" a controversial legal provision, "Article 136(b)," used to block prosecution of corrupt subordinates, but do indicate his intention to get ministers to stop using it, as in the Trade Minister's case. The Interior Ministry announced the uncovering of a bogus company involved in oil smuggling. The Council of Representatives is currently reviewing draft laws aimed at strengthening Iraq's major anti-corruption institutions, and an aide to Vice President Tariq Al-Hashemi predicted passage by the end of May. The Commission on Integrity head repeated past complaints to us about "political interference" -- consistent with his May 5 statement to the New York Times -- but also noted the COI's success in getting virtually all ministers and other senior officials to submit financial disclosure reports for 2008.
END SUMMARY.

THE SAGA OF 136(B)

12. (C) Following Prime Minister Maliki's May 9 call for action against corruption (ref a), local media reported May 14 that Prime Minister Nouri Al-Maliki had ordered the "freezing" of Article 136(b) of the Iraqi Criminal Procedure Code, which authorizes ministers to block the criminal prosecution of officials in their respective ministries.
(NOTE: This controversial provision, suspended by the CPA and subsequently reinstated by the GOI, is widely regarded as a significant obstacle to bringing officials to account for corruption and other criminal activities. END NOTE) However, sources in the Prime Minister's office and in the Commission on Integrity (the GOI's lead anti-corruption agency) denied to us that any order to "freeze" Article 136(b) had been issued, or that there were any plans to do so.

13. (C) On a more positive note, our sources did indicate that Al-Maliki had informed the judiciary of his opposition to any effort by embattled Trade Minister Abd Al-Falah Al-Sudani to use Article 136(b) to prevent prosecution of Trade Ministry (MOT) officials for corruption (see ref b for background on the MOT case). They also said the Prime Minister would similarly intervene in the future to prevent ministers from abusing their authority under Article 136(b) -- originally designed to protect officials from politically motivated criminal allegations -- so as to shield corrupt subordinates.

CORRUPTION IN THE OIL SECTOR

¶4. (SBU) The Interior Ministry announced May 13 the uncovering of an Iraqi "hoax company," saying its "president" and accomplices would be charged with "smuggling some 92 containers of oil" valued at \$3.5 million. The Ministry stated that it had monitored the company's illegal activities for two years prior to arresting the "president" and his associates. (COMMENT: The GOI continues to make progress in reducing the corruption in the oil sector that fosters smuggling, but the Interior Ministry's announcement serves as a reminder that there remains ample room for improvement on this score. END COMMENT)

PARLIAMENTARY CONCERN OVER CORRUPTION

¶5. (C) The Council of Representatives (COR) has demonstrated growing concern of late over corruption, with members, led by Integrity Committee head Sheikh Sabah Al-Saedi issuing statements, *inter alia*, criticizing the GOI for inadequate efforts to combat the phenomenon. Authorities' ongoing investigation of corruption in the MOT has figured in investigation of corruption in the MOT has figured in members' pronouncements, with Sheikh Sabah and others demanding Minister Al-Sudani's resignation. According to the media, he is scheduled to appear May 16 before the COR for questioning on his ministry's alleged corrupt activities. Meanwhile, the COR continues its review of long-pending legislation aimed at reforming Iraq's three major anti-corruption institutions, COI, Board of Supreme Audit, and Inspectors General. An aide to Vice President Tariq Al-Hashemi told us that he expected the COR to pass the three proposed laws by the end of May and that, in his judgment,

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they would indeed serve to strengthen the effectiveness and autonomy of the concerned agencies. He added, though, that Vice President Al-Hashemi and other executive branch officials objected to a few elements in the draft laws and would work to have the final texts amended accordingly. (COMMENT: The aide indicated that the amendments sought were relatively minor -- e.g., revising qualifications for the position of COI head. END COMMENT)

DISCUSSION WITH COI HEAD

¶6. (C) In a recent meeting with Anti-Corruption Coordinator and staff (ACCO), COI head Judge Rahim Al-Ugaili said the COI continued to be hampered by "political interference" -- e.g. pressure from political parties to prevent investigation of GOI officials affiliated with those parties. In response to query, he confirmed that Prime Minister Al-Maliki's Dawa party was among those exerting the pressure. Judge Rahim indicated that his ability to resist such pressure was limited, saying, "I lack the power to force the political leadership to stop meddling; building a strong COI able to defy the parties and politicians will take time." (NOTE: The COI head's comments were consistent with his May 5 statement to the New York Times that "the reason for the massive corruption in Iraq is the belief by the corrupt that they are shielded from prosecution by the protection afforded them by their political parties and sects." END NOTE) He did go on to note that the COI had been successful in getting virtually all Ministers and other senior GOI officials to submit the required annual financial disclosure statements covering ¶2008. The problem, he continued, was getting COR members to submit statements, as so far only a few had done so.

COMMENT

¶7. (C) As previously reported (ref c), the substantially greater number of GOI officials submitting financial disclosure reports compared to previous years is a notably

positive development in the anti-corruption effort here. Judge Rehim has previously expressed to us his concern over "political interference" (ref d). We agree with him that the COI's development as a strong component of Iraq's anti-corruption regime able to avoid political manipulation is a long-term process. Established in 2004 under the CPA, it remains a fledgling institution that will likely need capacity-building assistance by foreign donors for some time if it is to adequately lead Iraq's anti-corruption effort, as envisaged by the constitution. END COMMENT

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